

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JAMES E. ROSE, JR., and CONCIATA GABRIELA ROSE,	:	CIVIL ACTION NO. 1:11-CV-0323
	:	
	:	
Plaintiffs	:	(Judge Conner)
	:	
v.	:	
	:	
HEATHER ROBERTS, Esquire, MARK GRIM, JR., Court Administrator Adams County, HONORABLE JUDGE RICHARD RENN, York County,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 10th day of June, 2011, upon consideration of the Report and Recommendation (Doc. 8) of United States Magistrate Judge Malachy E. Mannion, recommending that the motion (Doc. 3) to proceed *in forma pauperis* filed by plaintiff James Rose (“Rose”) be granted, that Rose’s complaint (Doc. 1) be dismissed, and that Rose’s motion to supplement his complaint (Doc. 5) to add facts and to add a defendant be denied, and, following an independent review of the record and noting that plaintiff filed objections¹ to the report on April 4, 2011

¹ Where objections to a magistrate judge’s report and recommendation are filed, the court must perform a *de novo* review of the contested portions of the report. Supinski v. United Parcel Serv., Civ. A. No. 06-0793, 2009 WL 113796, at *3 (M.D. Pa. Jan. 16, 2009) (citing Sample v. Diecks, 885 F.2d 1099, 1106 n. 3 (3d Cir. 1989); 28 U.S.C. § 636(b)(1)(c)). “In this regard, Local Rule of Court 72.3 requires ‘written objections which . . . specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for those objections.’” Id. (citing Shields v. Astrue, Civ. A. No. 07-417, 2008 WL 4186951, at *6 (M.D. Pa. Sept. 8, 2008)).

(Doc. 9), and the court finding Judge Mannion's analysis to be thorough and well-reasoned, and the court finding plaintiff's objections to be without merit and squarely addressed by Judge Mannion's report (Doc. 8) and, upon further consideration of Rose's motion to withdraw his complaint (Doc. 12) against defendants Judge Richard Renn ("Renn") and Heather Roberts ("Roberts")², the court finding that defendant Mark Grim ("Grim"), as the Adams County Court Administrator, has immunity under the Eleventh Amendment;³ and the court observing the futility of granting Rose's motion to supplement his complaint;⁴ it is hereby ORDERED that:

1. The report and recommendation of the Magistrate Judge (Doc. 8) are ADOPTED in part and REJECTED in part as follows:
 - a. The report is ADOPTED insofar as it recommends that Rose's motion to proceed *in forma pauperis* (Doc. 3) is granted.

² In the interest of judicial economy, the court will grant this motion. As a result, Rose's motion to supplement his complaint with additional facts is, in large part, moot because it seeks to add allegations relating primarily to defendants Renn and Roberts.

³ This court accepts and adopts the Magistrate Judge's reasoning concerning Grim's immunity against § 1983 claims as set forth in the Report and Recommendation (Doc. 8 at 3-4).

⁴ As noted supra, note 2, this motion is largely moot, as a result of Rose's abandonment of his claims against Renn and Roberts. However, Rose also seeks to supplement his claim by incorporating a new defendant, Beverly Boyd ("Boyd"), Adams County Prothonotary. The court concludes that this proposed amendment should be denied as futile because the prothonotary, as a quasijudicial officer, enjoys immunity under the Eleventh Amendment. See Lockhart v. Hoenstine, 411 F.2d 455, 460 (3d Cir. 1969) (Discussing the immunity of individuals, including prothonotaries, acting under the direction of the court).

- b. The report is ADOPTED insofar as it recommends that Rose's complaint (Doc. 1) be dismissed as it pertains to Grim.
 - c. The report is ADOPTED insofar as it recommends that Rose's motion to supplement his complaint and add a defendant (Doc. 5) be denied.
 - d. The report is REJECTED as MOOT insofar as it recommends that Rose's complaint (Doc. 1) be dismissed as pertains to Roberts and Renn.
- 2. The motion to proceed *in forma pauperis* (Doc. 3) is GRANTED.
 - 3. The motion to withdraw complaint against Roberts and Renn (Doc. 12) is GRANTED. Rose's claims against Roberts and Renn are DISMISSED.
 - 4. The remaining portions of the complaint (Doc. 1) are DISMISSED.
 - 5. The motion to supplement (Doc. 5) is DENIED.
 - 6. The Clerk of Court is directed to CLOSE the above captioned case.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge